

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
AT KNOXVILLE

BRIAN WILLIAM THURLBY,

Petitioner,

v.

3:06-cv-462

DAVID MILLS, Warden,

Respondent.

**MEMORANDUM AND ORDER**

This is a petition for the writ of habeas corpus pursuant to 28 U.S.C. § 2254. The matter is before the court on various motions filed by the parties.

Respondent, through the Attorney General for the State of Tennessee, has filed a motion requesting additional time within which to respond to the petition for the writ of habeas corpus, based upon petitioner's recent amendment to his habeas petition. Respondent's motion [Court File No. 13] is **GRANTED**. Respondent shall have up to and including March 29, 2007, in which to file an answer or other response to the petition for the writ of habeas corpus.

Petitioner has filed a motion for the appointment of counsel [Court File No. 10] and a motion for an evidentiary hearing [Court File No. 11]. Until the respondent has filed his answer, the court cannot determine whether an evidentiary hearing is warranted, or whether appointment of counsel is therefore necessary. Rule 8(c) of the Rules Governing Section 2254 Cases In The United States District Courts. Accordingly, petitioner's motions for appointment of counsel and for an evidentiary hearing are premature, and they are **DENIED WITHOUT PREJUDICE**.

**E N T E R:**

s/ Thomas W. Phillips  
United States District Judge